Whether approved for reporting?[1] No

For the appellant : Mr.J.S.Guleria, Law Officer.

For the respondent: Mr.R.K.Gautam, Senior Advocate,
with Mr.Naveen Bhardwaj, Advocate.

Deepak Gupta J.(Oral)

This appeal by the State is directed against the judgment of the Judicial Magistrate Ist Class, Una in case No.225-II-96 decided on 13.5.1999, whereby the respondent has been acquitted of having committed offence under Sections 279, 337 and 338 of the Indian Penal Code.

The prosecution case in brief is that accused Jaspal Singh, who was driving a bus belonging to the Punjab Roadways caused an accident on 11.5.1996 due to his rash and negligent driving. It is alleged that the accident took place near Chawla Nursing Home. Two persons Suresh Kumar and Sukhdev Singh were injured in the said accident. Suresh Kumar was examined as PW-1. According to him he was hit on the back by the bus. He further states that the accident took place on the kacha portion of the road near Chawla Nursing Home. This witness admits that

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[1] Whether reporter of local papers are allowed to see the judgment ?

witnesses could not give any statement regarding the speed of the bus or the manner in which it was being driven since both of them were hit from behind. PW-3 Sarwan Singh has stated that the bus was being driven at a high speed when it hit the injured. However, in cross-examination he admits that actually he did not see the bus hitting the injured. The evidence of the other witnesses is not very relevant for decision of the case.

The accident is not denied by the accused. However, according to him, he was driving the bus in a proper fashion and was blowing the horn and even then the accident took place. Another factor, which has to be noticed, is that admittedly the accused parked his bus at the spot of accident itself and remained there till the police came on the spot. The spot map prepared on the spot is Ex.PW-11/D. This shows that the bus was on the pucca portion of the road which further clearly shows that there was no negligence on the part of the accused. It appears that the injured were walking atleast 3 to 4 feet inside the pucca portion of the road when they were hit. Pedestrians are supposed to walk on the kacha portion of the road and not on pucca portion of the main highway. The photographs have been proved on record as Ex.P1 and P2. These photographs clearly depict that the bus was on the proper side and on the pucca road and

the accused are discharged.

March 22, 2006(g) **(Deepak Gupta), J.**